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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/757,146

01/14/2004

Dwight D. Smith

18133

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7590

02/04/2009

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EXAMINER

TORRES RUIZ, JOHALI ALEJANDRA

ART UNIT

PAPER NUMBER

2838

MAIL DATE

DELIVERY MODE

02/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/757,146	Applicant(s) SMITH, DWIGHT D.	
	Examiner JOHALI A. TORRES RUIZ	Art Unit 2838	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/27/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 15-23 is/are allowed.
- 6) ☒ Claim(s) 1 and 10-12 is/are rejected.
- 7) ☒ Claim(s) 3-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/10/2008</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action has been issued in response to the amendment filed on October 27, 2008.
2. Claims 2 and 14 have been cancelled by applicant.
3. ***Claims 1, 3-13 and 15-23 are pending.*** Applicant's arguments have been carefully and respectfully considered. Rejections have been maintained where arguments were not persuasive. Also, new rejections based on the amended claims have been set forth.
4. ***Accordingly, claims 1 and 10-12 are rejected,*** and this action is made FINAL, as necessitated by amendment.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claim 15 recites the limitation "claim 14" in Page 4, Line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 14 has been cancelled by applicant.
7. Claim 16 recites the limitation "claim 14" in Page 4, Line 5. There is insufficient antecedent basis for this limitation in the claim. Claim 14 has been cancelled by applicant.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (U.S. Patent Number 5,844,401) and Wulff et al. (U.S. Patent Number 7,299,373).

10. Claim 1: Lee teaches a housing (3) having a battery receiving cavity, said cavity being profiled to receive at least a battery therein (Fig.3A), electrodes for contacting contacts on the battery for charging the battery (Col.3, Lines 39-41); said housing further comprising an opening through said housing and into said cavity and a gripping member (71) movable transversely into and out of said housing opening (Fig.3A), between a locked (Col.4, Lines 10-12) and unlocked position (Col.4, Lines 19-23), the gripper member (71) being forced transversely into the battery (5) in the locked position for frictionally (friction between gripping member 71 and battery element 51) gripping a battery placed within said cavity (Fig.3A).

Lee does not explicitly teach a cam assembly nor that the gripping member is operatively connected and movable by operation of said cam assembly.

Wulff teaches a cam assembly and a gripping member that is movable by operation of said cam assembly (Col.5, Lines 54-57).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have had the teachings of Wulff in the device of Lee to have released or engaged a battery by use of a cam or wheel rotating on a shaft (Col.5, Lines 54-57).

11. Claim 10: Lee and Wulff teach the limitations of claim 1 as discussed above. Lee teaches the battery receiving cavity is profiled to receive a battery (5) alone (Fig.3A).

12. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (U.S. Patent Number 5,844,401) and Wulff et al. (U.S. Patent Number 7,299,373) as applied to claim 10 above, and further in view of Taylor et al. (U.S. Patent Number 5,262,710).

13. Claim 11: Lee and Wulff teach the limitations of claim 10 as discussed above. It does not explicitly teach said cavity includes guides along the insertion axis of the cavity for holding the battery alone.

Taylor teaches a battery charger comprising guides along the insertion axis of a battery for holding a battery alone (Fig.5). (Col.9, Lines 36-42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have had the teachings of Taylor in the device of Lee to have guided a battery to a charging position (Col.9, Lines 54-61).

14. Claim 12: Lee, Wulff and Taylor teach the limitations of claim 11 as discussed above. Taylor teaches said guides are comprised of guide grooves along the insertion axis of a battery receiving cavity, and are profiled to receive ribs along an exterior of a battery (Col.9, Lines 36-42).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have had the teachings of Taylor in the device of Lee to have guided a battery to a charging position (Col.9, Lines 54-61).

Allowable Subject Matter

15. ***Claims 3-9 are objected*** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. Claims 13 and 15-23 are allowed.

Reasons for Allowable Subject Matter

17. The following is an examiner's statement of reasons for allowance: Prior art fails to disclose or suggest, a gripping member comprising a gripper portion attached to an insert nor a cam assembly comprised of a rotatable cam which operates within a follower groove in said insert.

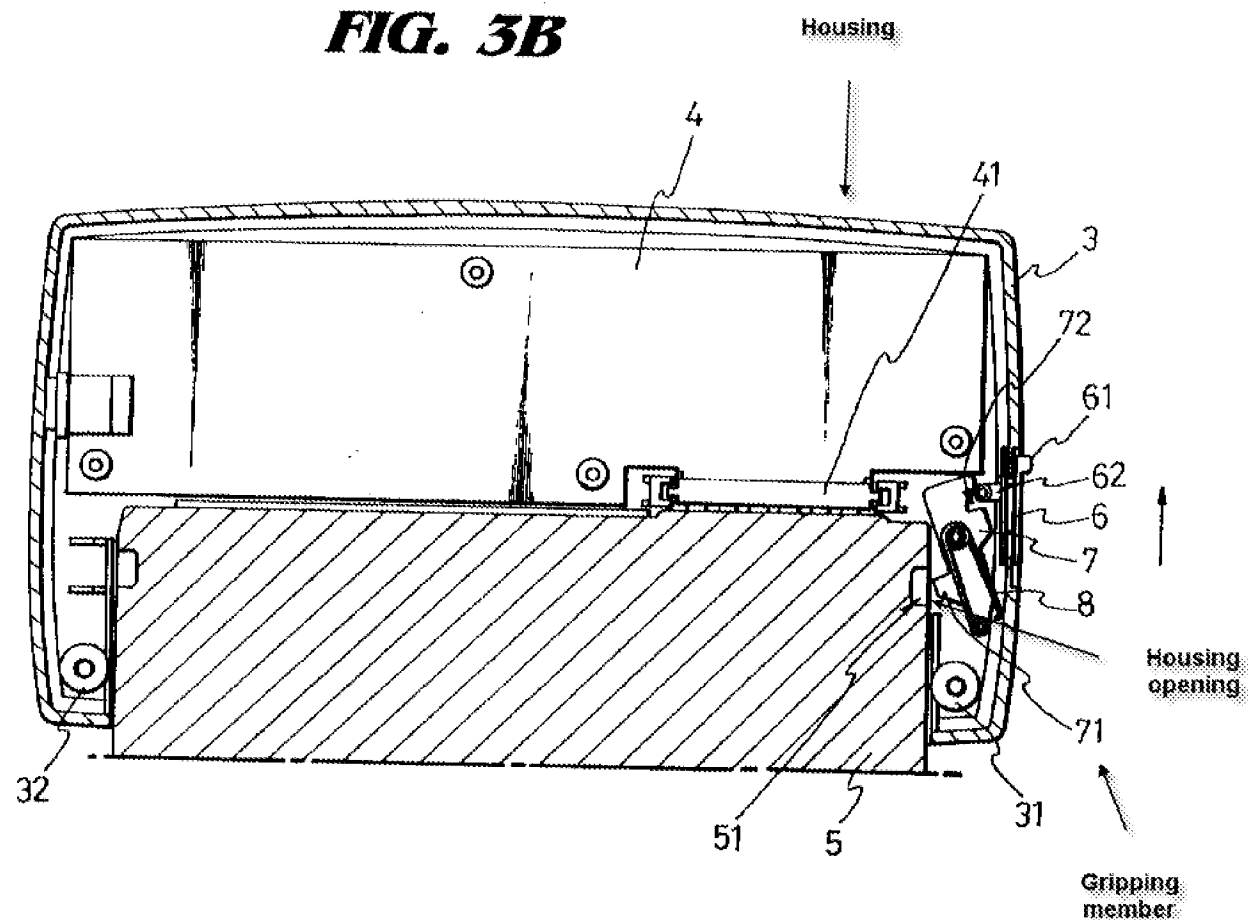
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

16. Applicant's arguments with respect to claims 1 and 13 have been considered but are moot in view of the new ground(s) of rejection.

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17. In response to applicant's argument that the Lee battery charger does not include an opening through the housing with a gripping member movable transversely in and out of the housing opening.



18. In response to applicant's argument that Lee does not teach a gripping member operable by way of a cam to grip the battery. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

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See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Wulff teaches a cam assembly and a gripping member that is movable by operation of said cam assembly (Col.5, Lines 54-57).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have had the teachings of Wulff in the device of Lee to have released or engaged a battery by use of a cam or wheel rotating on a shaft (Col.5, Lines 54-57).

The rejection is based on the combination of these references.

19. In response to applicant's argument that the gripping member in Wulff engages projections on the battery housing itself. Wulff was used to show a gripping member that is movable by a cam assembly. Wulff teaches a gripping member operable to release or engage a battery (10) from a battery housing (14) by operation of a cam assembly (Col.5, Lines 49-57).

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHALI A. TORRES RUIZ whose telephone number is (571)270-1262. The examiner can normally be reached on M- F 9:30am-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Akm Ullah can be reached on (571) 272-2361. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Akm Enayet Ullah/

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Supervisory Patent Examiner, Art
Unit 2838

/J. A. T./
Examiner, Art Unit 2838
JAT